

REMARKS

Claims 35-38 and 40-60 have been provisionally rejected on the ground of non-statutory obviousness-type double patenting over claims 1-17 of co-pending Application Serial No. 11/430,542. Applicant will file the necessary disclaimer once the claims of Serial No. 11/430,542 are allowed.

Claims 35-38, 40, 42-44, 46, 47, 50-55, 59 and 60 have been rejected under 35 USC 102(b) as anticipated by Kawasaki et al.

Kawasaki relates to a compressive hemostatic belt designed to press on the area of the body where bleeding is to be stopped. Accordingly, it is not an ostomy device. It is not designed to control the passage of liquid and solid waste material through a surgically created opening in the body.

The Examiner's comment with respect to "stoma" not being limited to an intestinal opening is noted. The main claims have been amended to highlight the function of the claimed ostomy device as controlling the passage of liquid and solid waste through the stoma. Further, the member is now explicitly required to be adapted to prevent passage of liquid and solid "waste" material through the stoma when pressed against the stoma.

It is respectfully submitted that the requirement that the claimed device be an "ostomy" device for controlling the passage of liquid and solid "waste" through the stoma clearly distinguishes over Kawasaki.

Further, according to the Examiner, the wound site is "at least partially covered/surrounded by" adhesive means 14 and 15 of Kawasaki. However, to function properly, the stoma covering means member of the claimed ostomy device must

completely surround and enclose the stoma such that, when pressed against the stoma, passage of liquid and solid waste through the stoma can be prevented. An adhesive means that only “at least partially” surrounds the stoma would not adequately seal the member to the body, or permit the member to prevent the prevent the passage of waste through the stoma, and therefore the ostomy device would not function in an acceptable manner.

Kawasaki discloses adhesive plasters 14 and 15. It teaches, at column 9, lines 25-28 “... the strip 1 is wrapped around the patient’s waist and the end is locked as by a fabric adhesive plaster 14, while a fabric adhesive plaster 15 is applied to a portion of the body and the strip 1 to prevent deviation.” Figures 22a and 22b illustrate the structure of the Kawasaki adhesive plasters 14 and 15.

It is clear from the Figures 22a and 22b of Kawasaki that plasters 14 and 15 are parallel to and spaced from each other. They do not and cannot completely surround or enclose the wound on all sides.

All of the claims of the application have been amended to require adhesive means “completely surrounding and enclosing the stoma on all sides for securing said recess defining means to the body such that said recess defining means forms a seal with the body completely surrounding and enclosing the stoma on all sides...”

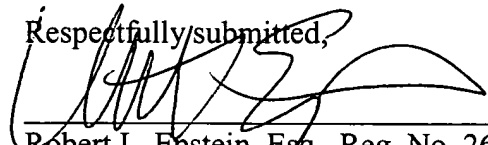
Accordingly, Kawasaki cannot be properly said to anticipate any of the claims presently in the application, as amended, and reconsideration and withdrawal of this rejection is respectfully requested.

Claim 41 is rejected under 35 USC 103(a) as being unpatentable over Kawasaki. Claim 56 is rejected under 35 USC 103(a) as being unpatentable over Kawasaki. and

Bergmann. Claim 45 is rejected under 35 USC 103(a) as being unpatentable over Kawasaki and Bernstein.

However, neither Kawasaki alone, or in combination with any of the secondary references, discloses an ostomy device in accordance with the claims as amended and hence these rejections should be withdrawn for the same reasons as set forth above.

Respectfully submitted,



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